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EXAMINER

GEDRICH, SARAH R

ART UNIT PAPER NUMBER

3625

DATE MAILED: 05/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/755,442

Applicant(s)

ROBB ET AL.

Examiner

Sarah R. Gedrich

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,6-9,12-14,16,20,23,24 and 26-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,6-9,12-14,16,20,23,24 and 26-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

The declaration under 37 CFR 1.132 filed 30 July 2004 is insufficient to overcome the rejection of claims 1-2, 6-9, 12-14, 16, 20, 23-24, 26-29 based upon 35 USC 103 as set forth in the last Office action because of the reasons stated below under "Response to Arguments."

Claims 3-5, 10-11, 15, 17-19, 21-22, and 25 have been canceled. Claims 1-2, 16, 20, and 24 have been amended. Claims 1-2, 6-9, 12-14, 16, 20, 23-24, and 26-29 have been examined in this non-final office action.

### ***Response to Arguments***

Applicant's arguments, see Remarks page 11, line 9 to page 12, line 9, and page 12, lines 18-23, filed 30 July 2004, with respect to claims 3, 14, 16, 20, 24, and 28-29 have been fully considered and are persuasive. The rejection of the above claims has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Chinn, Yahoo, Sheth, and Jammes. The Examiner directs attention to the rejections below.

Applicant's arguments, filed 30 July 2004 with respect to claims 1, 8, and 26-27 have been fully considered but they are not persuasive.

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Applicant argues:

- **Applicant strongly disagrees with the examiner's characterization that "specific layout and configuration of columns and headings ... is a matter of design choice and does not effect the overall operation of the method being modified ... "**

The Examiner notes, the following documents are provided in order to support the assertion that "specific layout and configuration of columns and headings...is a matter of design choice and does not effect the overall operation of the method being modified..."

- Vocal Point, Inc. International Application Publication Number WO 01/35235
  - Sheth Patent Application Publication US 2001/0032170 (especially note: Figure 21)
  - Jammes US Patent No. US 6,484,149 (especially note, Figures 4, and 7A-7D).
  - Spiegel US Patent No. US 6,466,918 (especially note, Figure 1A)
- **Bidz does not teach or suggest "allowing the end-user to pass through several menu pages and not have to physically enter information for a seller advertisement or a desired interest by a buyer, since the invention automatically fills in information based on the end-user having reached a selected menu page."**

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In response to this argument, the Examiner notes that Bidz teaches this feature on page 5 of Ref U cited 14 August 2003. The Examiner draws attention to the "Add/Sell item in this category" feature located on page 5. The Examiner maintains that the information is automatically filled in for the category.

### ***Claim Objections***

The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Number 24 has been used twice. The first claim 24 will be considered claim 23.

Applicant is advised to review the claims in their entirety and make corrections where appropriate.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claims 1-2, and 29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

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Claims 1 and 2 recites the limitation "the inputting" in lines 26, and 29-30 of claim 1 and lines 5-6 of claim 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 29 fails to distinctly claim the subject matter which the applicant regards as the invention. For the purposes of examining, Claim 29 will be viewed as dependent from claim 28.

Applicant is advised to review the claims in their entirety and make corrections where appropriate.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 26-27 are rejected under 35 U.S.C. 102(e) as being anticipated by**

**Bidz (PTO-892, Ref U; cited 14 August 2003).**

1. Referring to claim 26. Bidz discloses a method of accessing and placing classification information on a web based system, comprising of the steps of:

- Accessing a web site having a first main menu page of category headings by a user (page 2, "Full Category Listing ... u);

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- First selecting at least one of the category headings on the first main menu page; accessing a second menu page having first subcategory headings from the first selecting step (page 2, "Jewelry, Gemstones");
  - Second selecting at least one of the first subcategory headings (page 3, "Sub Categories");
  - Accessing a third menu page having second subcategory headings from the second selecting step (page 3, "Beaded");
  - Third selecting at least one of the second subcategory headings by scrolling down the third menu page (page 4, "Please select a sub category"); and
  - Repeating accessing and selecting by solely scrolling the menu page, until the user reaches an end of a menu series to a finite selection list of a classification, wherein interaction of the accessing of the first page, the second page, the third page, and the first selecting, the second selecting and the third selecting are navigated without inputting any search query (page 2, page 3 and page 4); and
  - Determining the status of the external end-user from the buyer to the seller, or from the seller to the buyer, at the selection list menu of the classification, and eliminating having to again enter information on the at least the first selected category headings and the second selected subcategory headings (page 5, **"Add/Sell item in this category..."**).
2. Referring to claim 27. Bidz discloses the method of claim 26 indicated supra.
- Bidz further discloses including the step of:

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- Filling in only extra data information on a listing for a new advertisement by the end-user seller, on the web based system since the new advertisement already and automatically was updated to include the at least the first selected category headings and the second selected subcategory headings (page 5, “**Add/Sell item in this category...**”).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-2, 6-9, and 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bidz (PTO-892, Ref U; cited 14 August 2003) in view of Vocal Point, Inc. (International Application Publication Number WO 01/35235, hereinafter referred to as “Chinn”).**

3. Referring to claim 1. Bidz discloses a method of accessing classification information on a web-based system until a finite selection point is achieved, comprising the steps of:

- Accessing and viewing a web site having a first main menu page of category headings by a user (page 2, “Full Category Listing ... u);
- First selecting and viewing at least one of the category headings on the first main menu page;



- Accessing and viewing a second menu page having first subcategory headings from the first selecting step (page 2, "Jewelry, Gemstones");
- Second selecting and viewing at least one of the first subcategory headings (page 3, "Sub Categories");
- Accessing and viewing a third menu page having second subcategory headings from the second selecting step (page 3, "Beaded");
- Third selecting and viewing at least one of the second subcategory headings by scrolling down the third menu page (page 4, "Please select a sub category"); and
- Repeating accessing and selecting and viewing by solely scrolling the menu page, until the user reaches an end of a menu series to a finite selection list of a classification, wherein interaction of the accessing of the first page, the second page, the third page, and the first selecting, the second selecting and the third selecting are navigated without the inputting any search queries (page 2, page 3 and page 4); and
- Viewing the single column of the finite selection list of the classification by scrolling down the finite selection list, without the inputting of any search queries (page 4 and page 5). Bidz discloses menu pages that a user must navigate through where each menu page has various combinations of vertical columns, horizontal listings, and combinations there of, etc. Bidz does not expressly disclose a second subcategory heading being solely listed in a single vertical column on the third menu page with separate subcategory headings solely on each line. The Examiner notes, the specific layout and configuration of columns

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and headings do not act to patentably distinguish the instant invention from the prior art. Furthermore merely shifting columns and subcategory headings is a matter of design choice and does not affect the overall operation of the method being modified. In re Japikse, 86 USPQ 70 (CCPA 1950).

Bidz fails to disclose providing a handheld device that is selected from at least one of a pager, a cell phone, and a PDA (personal digital assistant) and that the list of classification is a single column

Chinn discloses a system and method for accessing web content using limited display devices. Chinn teaches a processor that converts web pages into a navigation tree. Chinn further teaches:

- Providing a handheld device that is selected from at least one of a pager, a cell phone, and a PDA (personal digital assistant) (Chinn: pages 5, lines 21-26).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Bidz to provide a handheld device that is selected from at least one of a pager, a cell phone, and a PDA as taught by Chinn in order to provide access to the internet through emerging handheld devices (Chinn: page 1, line 23 to page 2, line 1).

- Viewing the single column of the finite selection list of the classification by scrolling down the finite selection list, without the inputting of any search queries (Chinn: page 27, line 21 to page 28, line 4).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Bidz to include viewing the single column of the finite selection list of the classification by scrolling down the finite selection list, without the inputting of any

search queries as taught by Chinn in order to “serve as an index that is suitable for browsing content using voice commands” (Chinn: page 28, lines 2-4).

4. Referring to claim 2. Bidz further discloses a method wherein the steps of the accessing of the first page, the second page, the third page, and the first selecting, the second selecting and the third selecting include a user navigating each accessing and selecting step by point and click (page 2, page 3 and page 4). Bidz does not expressly disclose selecting by voice command or a combination of point and click and voice command. The Examiner notes, the use of voice command to select a category or subcategory is functionally equivalent to the use of the point and click method utilized by Bidz. Further, one could use the instant invention with a plurality of selection means, i.e. menus, scrollbars, voice, touch screen, etc. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided any type of selection means in the system taught by Bidz since the applicant has not disclosed that having the voice command selection means solves any stated problem or is for any particular purpose and it appears that the point and click selection means would perform equally as well.

5. Referring to claim 6. Bidz discloses a system according to claim 1 as indicated supra. Bidz further discloses a method with a plurality of category headings including headings for: agriculture (Garden Items - page 7), aircraft (Star Wars - Page 7 or Miscellaneous - Page 7), antiques (Antiques - Page 6), automobiles (Automotive - page 7), boats (Miscellaneous - Page 7), heavy equipment (Tools - Page 7), heavy trucks (Automotive - Page 7), industrial (Tools - Page 7), medical (Miscellaneous - Page 7),

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pickup trucks (Automotive - Page 7), recreational vehicles (Automotive - Page 7), and sport utility vehicles (Automotive - Page 7) and vans (Automotive - Page 7). The Examiner notes, one could use both the instant invention and the system disclosed by Bidz to sell or search for an unlimited genre of items.

6. Referring to claim 7. Bidz further discloses a method wherein the first subcategory headings include headings for: makes, items, and services (page 6, page 7 and page 8).

7. Referring to claim 8. Bidz further discloses a method comprising the step of viewing the finite selection of the classification by scrolling through a list (page 5). Bidz discloses menu pages that a user must navigate through where each menu page has various combinations of vertical columns, horizontal listings, and combinations thereof, etc. Bidz does not expressly disclose a second subcategory heading being solely listed in a single vertical column on the third menu page with separate subcategory headings solely on each line.

The Examiner notes, the specific layout and configuration of columns and headings do not act to patentably distinguish the instant invention from the prior art. Furthermore merely shifting columns and subcategory headings is a matter of design choice and does not affect the overall operation of the method being modified. In re Japikse, 86 USPQ 70 (CCPA 1950).

Bidz does not expressly disclose a method comprising the step of viewing the finite selection of the classification by scrolling through a list. Chinn further teaches:

- Solely listing the first subcategory headings on the second menu page in a single vertical column and selecting from the single vertical column of the first subcategory by scrolling down there through (Chinn: page 27, line 21 to page 28, line 4).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Bidz to include solely listing the first subcategory headings on the second menu page in a single vertical column and selecting from the single vertical column of the first subcategory by scrolling down there through as taught by Chinn in order to “serve as an index that is suitable for browsing content using voice commands” (Chinn: page 28, lines 2-4).

8. Referring to claim 9. Bidz further discloses a method comprising the step of solely filtering and sorting the finite selection list of the classification into a filtered and sorted list; and viewing the filtered and sorted list, wherein filtering and sorting only occurs at the finite selection (page 5).

9. Referring to claim 12. Bidz further discloses a method wherein the user is at least one of a buyer and seller, each user having an interest in at least one of a good, a make, an item, and a service (page 6, page 7 and page 8).

10. Referring to claim 13. Bidz further discloses a method wherein the classification information includes advertisements by sellers, each of the sellers listing at least one of goods, makes, items and services (page 6, page 7 and page 8).

11. Referring to claims 23-24. Claims 23-24 are rejected under the same rationale as set forth above in claims 1-3, 6-9, 12-14, and 16.

**Claims 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination Bidz (PTO-892, Ref U; cited 14 August 2003) and Chinn in further view of Yahoo (PTO-892, Ref U, cited 20 May 2005).**

12. Referring to claim 14. Bidz fails to disclose a method comprising the step of requesting an unlisted item from the web based system by a buyer-user, the unlisted item being for at least one of: a good, a make, an item, an item and a service. Yahoo teaches online classifieds. Yahoo further teaches:

- The step of requesting an unlisted item from the web based system by a buyer-user, the unlisted item being for at least one of: a good, a make, an item, an item and a service (Yahoo: page 3 **"Autos Notify Me"**).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combination of Bidz and Chinn to include the step of requesting an unlisted item from the web based system by a buyer-user, the unlisted item being for at least one of: a good, a make, an item, an item and a service as taught by Yahoo in order to provide time saving features (Yahoo: page 3).

13. Referring to claim 16. The combination of Bidz and Chinn in further view of Yahoo teaches a method according to claim 14 as indicated supra. Bidz does not expressly disclose a method wherein the notification step further includes at least one of paging the buyer-user, and e-mailing the buyer user. Yahoo further discloses:

- A method wherein the notification step further includes at least one of paging the buyer-user, and e-mailing the buyer-user (Yahoo: page 3 **"Autos Notify Me"**).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combination of Bidz and Chinn to include the notification step further includes at least one of paging the buyer-user, and e-mailing the buyer user as taught by Yahoo in order to provide time saving features (Yahoo: page 3).

**Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination Bidz (PTO-892, Ref U; cited 14 August 2003) in view of Sheth (Patent Application Publication US 2001/032170).**Referring to claim 20. Bidz discloses a method of accessing classification information on a web-based system until a finite selection point is achieved, comprising the steps of:

- Accessing a web site having a first main menu page of category headings by a user (page 2, "Full Category Listing ... u);
- First selecting at least one of the category headings on the first main menu page; accessing a second menu page having first subcategory headings from the first selecting step (page 2, "Jewelry, Gemstones");
- Second selecting at least one of the first subcategory headings (page 3, "Sub Categories");
- Accessing a third menu page having second subcategory headings from the second selecting step (page 3, "Beaded");
- Third selecting at least one of the second subcategory headings by scrolling down the third menu page (page 4, "Please select a sub category"); and

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- Repeating accessing and selecting by solely scrolling the menu page, until the user reaches an end of a menu series to a finite selection list of a classification, wherein interaction of the accessing of the first page, the second page, the third page, and the first selecting, the second selecting and the third selecting are navigated without inputting any search query (page 2, page 3 and page 4); and
- Expanding listing of viewable data both horizontally and vertically by the external end user to the web based system (page 8 through page 13).

Bidz fails to disclose accessing classification information wherein the step of allowing for dynamically updating by the external end user includes the step of adding and deleting from one of the at least one of the category headings, and the first subcategory headings by the external end user to the web based system. Sheth discloses a method and system for a private online marketplace. The system allows vendors to submit request for proposals to be displayed for buyers to bid on. Sheth further discloses:

- Allowing for dynamically updating by the external end user includes the step of adding and deleting from one of the at least one of the category headings, and the first subcategory headings by the external end user to the web based system (Sheth: paragraph 0111, Figure 22(a) "2208 Other," Figure 22(b) "2210 Other").

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Bidz to include allowing for dynamically updating by the external end user includes the step of adding and deleting from one of the at least one of the category headings, and the first subcategory headings by the external end user to the



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web based system as taught by Sheth in order to allow the user to enter a description if the description is not found in the pull down menu (Sheth: Figure 22(a), Figure 22(b)).

**Claims 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bidz (PTO-892, Ref U; cited 14 August 2003) in view of Jammes (US Patent No. 6,484,149).**

15. Referring to claim 28. Bidz discloses a method of accessing and placing classification information on a web based system comprising the steps of:

- Accessing a web site having a first main menu page of category headings by a user (page 2, "Full Category Listing ... u);
- First selecting at least one of the category headings on the first main menu page; accessing a second menu page having first subcategory headings from the first selecting step (page 2, "Jewelry, Gemstones");
- Second selecting at least one of the first subcategory headings (page 3, "Sub Categories");
- Accessing a third menu page having second subcategory headings from the second selecting step (page 3, "Beaded");
- Third selecting at least one of the second subcategory headings by scrolling down the third menu page (page 4, "Please select a sub category"); and
- Repeating accessing and selecting by solely scrolling the menu page, until the user reaches an end of a menu series to a finite selection list of a classification, wherein interaction of the accessing of the first page, the second page, the third

page, and the first selecting, the second selecting and the third selecting are navigated without inputting any search query (page 2, page 3 and page 4);

Bidz fails to disclose selectively placing banner advertisements on limited menu pages after the first main menu page, so that the external end-user view the banner ads only on the selected subsequent menu pages of the web based system. Jammes discloses a system and methods for viewing product information, and generating web pages. Jammes system displays a hierarchical representation of products and product groups of an electronic store. A user is able to manipulate the icons, relationships between products, and product groups, etc. Jammes further discloses:

- Selectively placing banner advertisements on limited menu pages after the first main menu page, so that the external end-user view the banner ads only on the selected subsequent menu pages of the web based system (Jammes: Column 56, lines 12-16).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Bidz to include selectively placing banner advertisements on limited menu pages after the first main menu page, so that the external end-user view the banner ads only on the selected subsequent menu pages of the web based system as taught by Jammes in order to enable a store designer to develop and manage the content of an electronic store (Jammes: Column 1, lines 31-33).

16. Referring to claims 29. Bidz fails to disclose determining placement of the banner ads on the selected menu pages to the web site by the sellers to the web based system. Jammes further discloses:

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- Determining placement of the banner ads on the selected menu pages to the web site by the sellers to the web based system (Jammes: column 56, lines 7-16).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Bidz to include determining placement of the banner ads on the selected menu pages to the web site by the sellers to the web based system as taught by Jammes in order to enable a store designer to develop and manage the content of an electronic store (Jammes: Column 1, lines 31-33).

### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah R. Gedrich whose telephone number is (571) 272-8121. The examiner can normally be reached on M-F 7:30am - 5:00pm, alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on (571) 272-7159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SRG

  
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